

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Applicants are submitting the present Amendment without prejudice to the subsequent prosecution of claims to some or all of the subject matter which might be lost by virtue of this paper, and explicitly reserve the right to pursue some or all of such subject matter, in Divisional or Continuation Applications.

**I. CLAIM STATUS AND AMENDMENTS**

In items 4 and 6 on page 1 of the Office Action Summary claims 1-24 were incorrectly indicated as pending and rejected. Kindly note that claims 13-20 are the correct pending claims and stand rejected.

Minor editorial revisions have been made to the claims to better conform to U.S. claim form. Such revisions are non-substantive and not intended to narrow the scope of protection.

New claims 25 and 26 have been added. Support for claims 25 and 26 can be found in originally filed claims 16 and 20, respectively.

No new matter has been added by the above claim amendments.

Claims 13-26 are pending upon entry of this amendment.

The specification is amended to include appropriate section headings in conformance to U.S. practice. No new matter has been added.

Applicants note that the above claim amendments are intended to address matters of form only as they are not intended to affect the scope of the claims. Accordingly, if the next Office Action on the merits includes a rejection of one or more claims, the Action must be non-final.

Applicants thank the Examiner for the careful examination of this case, and respectfully request reexamination and reconsideration of the case, as amended. Below Applicants address the rejections levied in the Office Action, and explain why the rejections are not applicable to the pending claims as amended.

## II. OBJECTION TO THE SPECIFICATION

The Office objects to the specification for omitting section headings. See item 1 on page 2 of the Official Action. The present amendment overcomes this objection by adding appropriate section headings. Withdrawal of this objection is therefore solicited.

### III. ANTICIPATION REJECTIONS

The Office rejects claims 13, 14 and 17-24 under 35 U.S.C. § 102(b) as anticipated by PONTON for the reasons in item 3 on page 2 of the Official Action.

The Office also rejects claims 13-20 under 35 U.S.C. § 102(b) as anticipated by LAST et al. for the reasons in item 4 on page 2 of the Official Action.

These rejections are respectfully traversed.

To anticipate a claim, the cited prior art reference must teach each and every element of the claimed invention. See, M.P.E.P. § 2131.

Applicants respectfully submit that PONTON and LAST et al. fail to disclose or suggest each and every element of the claimed invention for the reasons set forth below.

It is respectfully submitted that the Office has overlooked the feature in claim 13 (i.e., the sole independent claim) specifying that "said connecting means have at least one end portion (23, 30, 31a, 31c) starting from said one at least one end and oriented in such a way as to diverge from a zone (B) in the shape of a vertical flat band containing a geometric line directly connecting said actuating member (7, 9, 19, 107, 109, 117) and said outlet member (24, 29)." [Emphasis added.] See the end of claim 13. The cited prior art references fail to

disclose or suggest this structural feature of independent claim 13.

First, Applicants will discuss the PONTON reference.

PONTON discloses a dispensing device including a reservoir 12, an ejection assembly 7 that is supported on a wall of the reservoir immediately above 39 in figure 3A, an actuating member 38 and flexible connecting means 41. Applicants agree with the Office's interpretation in item 3 on page 2 of the Action that, in the device in PONTON, the flexible connecting means 41 forms a straight vertical band extending from the actuator at 52 directly to the outlet at 9. This is evident from Fig 3A of PONTON.

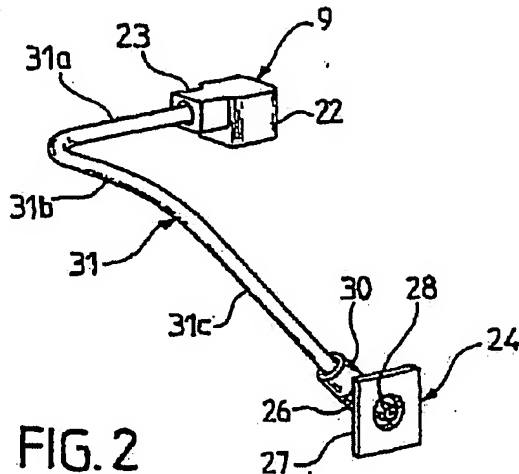
However, this feature in PONTON does not meet the recited feature of claim 13 requiring the connecting means have at least one end portion (23, 30, 31a, 31c) starting from said one at least one end and oriented in such a way as to diverge from a zone (B) in the shape of a vertical flat band.

By way of example, this recited feature in claim 13 reads on the embodiment illustrated in present Figs 2 and 3 of the disclosure.

In this respect, the application discloses a dispensing device (1, 101), including a reservoir (2, 102), an ejection assembly (5, 105) that is supported on a wall (4, 104) of the reservoir, an actuating member (7, 9, 19, 107, 109, 117). The

flexible connecting means (23, 31, 30, 123, 131) connected to an outlet member (24, 29) is characterized, as required in claim 13, such that said connecting means have at least one end portion (23, 30, 31a, 31c) oriented in such a way as to diverge from a zone (B) in the shape of a vertical flat band containing a geometric line directly connecting said actuating member (7, 9, 19, 107, 109, 117) and said outlet member.

See, for instance, Fig 2 of the present case as shown below.



In this figure, it is evident that the last one end portion (23, 30, 31a, 31c) in the connecting means diverges from a zone (B). Take note of the curve/bend in the connecting means in this Fig.

See also Fig 3 of the present case as shown below.

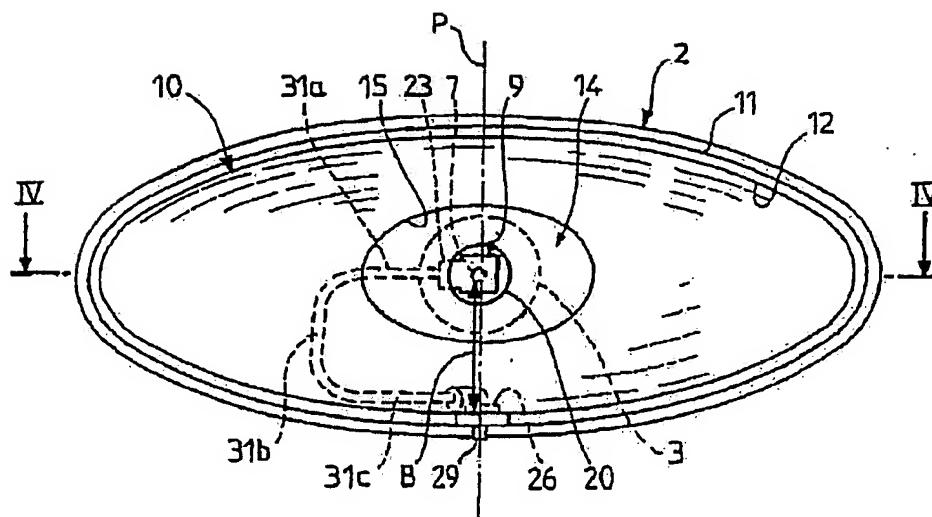


FIG. 3

Fig 3 shows the vertical flat band (B), comprised in a geometric vertical plane (P), and sleeves (23, 30) and portion of tubes (31a, 31b, 31c) which are not comprised in said vertical flat band (B).

As can be seen, the connecting means in the device of claim 13 diverge from zone (B) in the shape of a vertical flat band. As such, claim 13 cannot read on a device that forms a straight vertical band extending from the actuator directly to the outlet as in the device of PONTON.

In view of the above, it is evident that the device in PONTON fails to meet the above-discussed structural feature of claim 13. As a result, PONTON cannot be said to disclose or

suggest each and every element of claim 13. For this reason, Applicants submit that claim 13 is novel over PONTON.

The remaining claims 14 and 17-24 depend on claim 13 (either directly or indirectly). Applicants submit that these claims are also novel over PONTON for the same reasons set forth above due to their dependency on claim 13.

Therefore, the above 102(b) anticipation rejection over PONTON is untenable and should be withdrawn.

Applicants will now discuss the LAST et al. reference.

LAST et al. also fail to disclose or suggest the above-mentioned structural feature of independent claim 13.

LAST et al. disclose a dispensing device including a reservoir 3, an ejection assembly 5 that is supported on a wall of the reservoir at 3 and 4, an actuating member 14 and flexible connecting means 11 with female connectors at both ends. As correctly interpreted by the Office, in the device of LAST et al., the connecting means 11 forms a straight vertical band extending from the actuator at 7 directly to the outlet at 12. Such device clearly does not meet the above-discussed structural feature of claim 13 requiring connecting means oriented in such a way as to diverge from a zone (B) in the shape of a vertical flat band containing a geometric line directly connecting said actuating member (7, 9, 19, 107, 109, 117) and said outlet member.

In fact, since the connecting means in the device of claim 13 of the present application diverges from a zone (B) in the shape of a vertical flat band, claim 13 cannot read on a device that forms a straight vertical band extending from the actuator directly to the outlet as in the device of LAST et al.

Therefore, it is respectfully submitted that LAST et al. fail to disclose or suggest the above-mentioned structural feature of claim 13. Accordingly, LAST et al. cannot anticipate the device of claim 13. As a result, Applicants submit that claim 13 is novel over LAST et al.

The remaining claims 14-20 depend on claim 13 (either directly or indirectly). These claims are novel over LAST et al. for the same reasons set forth above in view of their dependency on claim 13.

Therefore, the above 102(b) anticipation rejection over LAST et al. is untenable and should be withdrawn.

#### IV. CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.




If the Examiner has any comments or proposals for expedited prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

  
Jay E. Williams, Reg. No. 48,036  
Customer No. 00466  
209 Madison Street, Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

JFW/lad